

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JOHN RONALD BIRD,

Plaintiff,

VS.

NATHANIEL QUARTERMAN, *et al*,

Defendants.

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CIVIL ACTION NO. C-07-452


**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION
TO GRANT RESPONDENT'S MOTION TO DISMISS**

On April 17, 2008, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that respondent's motion to dismiss (D.E. 13) be granted; that petitioner's motion not to dismiss his petition (D.E. 16) be denied; and that a certificate of appealability be denied. A copy of the Memorandum and Recommendation was mailed to petitioner with a card to be returned indicating his receipt of the mailing. The card has not been returned by petitioner nor has the mailing been returned by the U.S. Post Office as undeliverable. Therefore, seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is

ORDERED that respondent's motion to dismiss is granted and petitioner's motion not to dismiss his petition is denied. Certificate of appealability is denied.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 26th day of June, 2008.


Janis Graham Jack
United States District Judge